IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3781 OF 2003
IN
INCOME TAX APPEAL LODG.NO.1225 OF 2003

The Commissioner of Income Tax..Apellant

Versus

M/s.Aventis Pharma Ltd. ..Respondents

Mr. S.M. Shah i/b. S.S. Sarkar for the Appellant

Mr.P.S. Colabawala i/b. Madekar & Co., for the Respondents

CORAM : F.I. REBELLO &
R.V. MORE,JJ.

DATED : 6th July, 2007

P.C.

. This is an application for condonation of delay of 200 days in preferring the Appeal. Though an affidavit was filed in support of the Motion, an additional affidavit is now filed by Smt. Monica Khare pursuant to the order of this Court. There is a delay of 200 days.However, what appears is that the file was pending in the Ministry of Law between 3rd June, 2003 and 18th December, 2003. We have noted that earlier the practice was that the files had to be sent to the Ministry of Law for drafting the Appeals. The Ministry of Law used to take its own time. The practice has since been changed and the Department is now filing the Appeals without referring them to the Ministry of Law.

However, a large number of such matters are pending before this Court where applications for condonation of delay was made on behalf of the Revenue. We have in large number of cases of delay of 200 days or less days condoned the delay.

2. In the instant case on behalf of the respondents their learned Counsel draws our attention to the judgment in Binod Bihari Singh vs. Union of India (1993) 1 Supreme Court Cases 572 to contend that where there is false plea to get rid of the bar of limitation the party should not be encouraged by condonation of delay. On the other hand on behalf of the Revenue their learned Counsel drawn our attention to the judgment in State of Nagaland vs. Lipok AO 2005 (183) E.L.T. 337 (S.C.) where the Apex Court has noted that some latitude is permissible due to procedural red tape in Government functioning. The learned Apex Court reviewed various judgments in the matter of condonation of delay.

3. In our opinion considering the facts on record and the delay being caused on account of the practice of sending the Appeal memo for being drafted to the Ministry the Revenue has made out sufficient cause. In our further opinion therefore, this would be a fit case for us to grant some latitude and condone the delay. In the light of that the Motion is made absolute in terms of prayer clause (a). Office to register the Appeal.

(F.I. REBELLO, J.)

(R.V. MORE, J)